

82 - 2122

NO. _____

Office - Supreme Court, U.S.

FILED

JUN 28 1983

ALEXANDER L. STEVAS.

CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

PATRICIA THOMPSON,
EDDIE THOMPSON, JR.,
Petitioners-Plaintiffs,

vs.

78-57 81-5784
RICHARD NELSON,

And

79-40 81-5785

PEOPLES LIBERTY BANK; CARSON FURNITURE; GEORGE
WERMELING; RALPH HAILE; JUDY GUFFEY; RICHARD
NELSON; RICHARD SLUKICH; THOMAS A. EPPERSON;
JAMES TUCKER; TODD A. FINAN; JAMES LILES; BERNARD
SMITH; HENRY WARDEN; UNNAMED POLICE OFFICERS;
UNNAMED EMPLOYEES OF CARSON FURNITURE

And

78-70 81-5786

RICHARD SLUKICH; PEOPLES LIBERTY BANK;
RALPH HAILE; RICHARD NELSON,
Respondents-Defendants.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

EDDIE THOMPSON, JR.,
P.O. Box 1221
Covington, Kentucky 41012
(606) 491-6278

PATRICIA THOMPSON,
P.O. Box 1221
Covington, Kentucky 41012
(606) 491-6278

QUESTIONS PRESENTED

1. Did the trial court commit reversible error when it tried police officers on the wrong theory, and when it excluded parties, who admitted they hired one of the police officers in alleged wrongful beating of Plaintiff?
2. Is a party bound to what he stipulates?
3. Does a complaint which alleges that Defendants hired police officers and others to deprive Plaintiffs of liberty and property, without due process or equal protection of the law, state a cause of action?
4. Were Defendants entitled to Summary Judgment, where Defendants controverted none of the facts in the complaints or alternately, were facts established by Plaintiffs, where Plaintiffs filed Motion and Affidavit for Summary Judgment and Defendants neglected to file counter affidavits?
5. Is a former judgment conclusive of the matters in issue?
6. Was award of attorney fees to Defendants clearly erroneous?

III.

INDEX

	Page
Questions Presented	I
Affidavit	ix
Opinion Below	2
Jurisdiction	2
Constitutional and Statutory Provisions	3
Statement	6
Reasons for Granting Writ	11
Conclusion	18
Certificate of Service	19

Appendix:	Page
Order, Court of Appeals, Mar. 10, 1983, Ex. A	1a
Order, Court of Appeals, May 4, 1983, Ex. B	4a
Order, Trial Court 10/29/80, 78-57; 78-70; 79-40; Ex. C	6a
Judgment 78-57 - 10/29/80, Ex. D.	9a
Judgment 78-70 - 10/29/80, Ex. E	10a
Judgment 79-40 - 10/29/80, Ex. F	11a
Judgment 79-40 - 10/31/80, Ex. G	12a
Order 78-57 - 12/12/80, Ex. H	13a
Order 78-70 - 12/12/80, Ex. I	15a
Order 79-40 - 12/12/80, Ex. J	16a
Order 78-57, 78-70, 79-40, - 12/18/80, Ex. K	19a
Judgment 78-57 - 12/18/80, Ex. L	23a

IV.

	Page
Judgment 78-70 - 12/18/80, Ex. M	24a
Order 78-57, 78-70, 79-40, - 9/23/80, Ex. N	25a
Affidavit - Nelson, 9/18/80, Ex. O	28a
79-CA-1456 MR - Ex. P	29a
Complaint 78-57 NR 1, Ex. Q	32a
Amendment as of Course - 78-57 NR 6, Ex. R	35a
Amended Complaint and Affidavit - 78-70 NR 38, 39, Ex. S	37a
Complaint - 79-40 NR 1, Ex. T	44a

CITATIONS

	Page
<i>Bicens v. Six Unknown Fed. Narcotics Agents</i> 403 U.S. 338	15
<i>Canty v. Richmond, Virginia, Police Department,</i> 383 F Supp. 1396, Affirmed 526 F 2d 587	18
<i>Carter v. Stanton</i> 405 U.S. 669, 671	16
<i>Chapman v. Shannan</i> 6 Ky Opin. 30	14
<i>Christianburg Garment v. E.E.O.C.</i> 434 U.S. 422 ..	17, 17-18
<i>Commonwealth, Dept. of Safety v. Cox</i> 467 S.W. 2d 603 .	13
<i>Commonwealth v. Harris</i> 128 S.W. 2d 579	13
<i>Commonwealth v. Tuemler</i> 526 S.W. 2d 305	13
<i>IN RE Double D Dredging Co.</i> 467 F 2d 658 (5th Cir.)	12
<i>England v. Louisiana Medical Examiners</i> 375 U.S. 411, 415	16, 18
<i>Faraci v. Hickey Freeman Co.</i> 607 F 2d 1025	17
<i>First National Bank v. Cities Service Co.</i> 391 U.S. 253, 288	17
<i>Hayes v. Rodger</i> 447 S.W. 2d 597 (Ky)	15
<i>Helena Curtis Industries v. Church & Dwight</i> 560 F 2d 2325	12
<i>Hickman v. Taylor</i> 329 U.S. 500	16
<i>Hughes v. Rowe</i> 449 U.S. 4	18
<i>Iron Mountain and Helena Railroad v. Johnson</i> 119 U.S. 608	15

vi.

	Page
<i>Jones v. Mayers Co.</i> 392 U.S. 409, 420	16
<i>Kalb v. Fuerstein</i> 308 U.S. 434	16
<i>Kemper v. American Broadcasting Co.</i> 365 F Supp 1275 .	17
<i>Lindy Bros. Bldrs. v. Amer. R & S San Corp.</i> 487 F 2d 161	17
<i>Lynch v. Household Finance Corp.</i> 405 U.S. 538, 552 ..	16
<i>Marcum v. Commonwealth (Ky)</i> 483 S.W. 2d 122	13
<i>Monroe v. Pape</i> 365 U.S. 167	15
<i>Morgan v. Wickliffe</i> 24 K.L.R. 1039, 70 S.W. 680	15
<i>Morlock v. NCR Corporation</i> 586 F 2d 1096	13
<i>Olsen v. Muskegon Piston Co. (1941 6th Cir.)</i> 117 F 2d 163	14
<i>Perkinsky v. Standard Oil Co.</i> 339 U.S. 22	17
<i>R. E. Cruise, Incorporated v. Bruggman</i> 508 F 2d 415 ..	17
<i>Sardo v. McGrath</i> 196 F 2d 20, 22	17
<i>Shelley v. Kraemer</i> 334 U.S. 1, 10	16
<i>Southern Pacific R. Co. v. United States</i> 168 U.S. 1, 48-49	15
<i>Springfield Fire and Marine Ins. Co. v. Phillips</i> 16 K.L.R. (Abstract) 390	15
<i>Thompson v. Kenton County Board of Elections</i> , 523 S.W. 2d, 68 Cert. Denied Jan. 26, 1976, 96 S.Ct. 873	6, 18
<i>Thompson v. Peoples Liberty</i> — 79-CA-1456 MR, U.S. Supreme 80 1358, Cert. Denied	7
<i>Tipton v. Smith (Tenn 1979)</i> 593 S.W. 2d 298	14

VII.

	Page
<i>Traver v. Meshriy</i> 627 F 2d 934	16
<i>Union Idem. Co. v. Benton Lumber</i> (1929 ARK)	
18 S.W. 2d 327	14

MISCELLANEOUS:

U.S. Constitution, 4th Amendment	3
U. S. Constitution, 5th Amendment	3
U.S. Constitution, 14th Amendment	3
42 U.S.C. 1983	3
42 U.S.C. 1985	3
K.R.S. 186.550	13
K.R.S. 186.560	13
K.R.S. 186.565(1)	4
K.R.S. 186.565(3)	5, 6
K.R.S. 189.520(2)	5
K.R.S. 189.520(4)	5
K.R.S. 189.520(6)	5, 13
K.R.S. 426.525	4, 6, 18

IX.

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

PATRICIA THOMPSON,
EDDIE THOMPSON, JR.,

Petitioners-Plaintiffs,

vs.

78-57 81-5784

RICHARD NELSON,

And

79-40 81-5785

PEOPLES LIBERTY BANK; CARSON FURNITURE; GEORGE
WERMELING; RALPH HAILE; JUDY GUFFEY; RICHARD
NELSON; RICHARD SLUKICH; THOMAS A. EPPERSON;
JAMES TUCKER; TODD A. FINAN; JAMES LILES; BERNARD
SMITH; HENRY WARDEN; UNNAMED POLICE OFFICERS;
UNNAMED EMPLOYEES OF CARSON FURNITURE

And

78-70 81-5786

RICHARD SLUKICH; PEOPLES LIBERTY BANK;
RALPH HAILE; RICHARD NELSON,

Respondents-Defendants.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

AFFIDAVIT

Comes now Petitioner, Eddie Thompson, Jr., first being duly cautioned and sworn and states as follows:

1. That a jury in Kenton District Court did render a verdict against me for alleged DUI.
2. That a jury in Kenton District Court did render a verdict against me for alleged criminal trespass at my home.
3. That I timely appealed both convictions to the Kenton Circuit Court.
4. That the Kenton Circuit Court dismissed both cases.
5. That neither case was ever remanded back to the Kenton District Court.
6. That even though I had won these cases, Mr. Nelson and/or Mr. Slukich had a Kenton District Deputy Clerk to issue summons for me to appear in Kenton District Court.
7. That the first time I appeared in court, the Judge instructed the clerk not to call these cases again, unless they were remanded back to the District Court by the Circuit Court.
8. That after the Federal Court ordered the pre-trial set [(June 30, 1980) 79-40, NR 18 Ex. N, this App. P. 26a], Mr. Nelson and/or Mr. Slukich caused a criminal summons to be issued against me demanding fines I did not owe.
9. That at the pre-trial conference, Mr. Nelson acknowledged he was aware of the summons. Pre-Trial Trans. 93, 81-5784, App. P. 184.
10. That I paid the fine, because I knew Judge Douglas Stephens (sitting judge that day) would have me illegally jailed by having a Deputy Clerk sign an "Order of Commitment."

XI.

11. That Judge Stephens would not sign any order, thus, I would not be able to appeal.
12. That Judge Stephens had had clerks to sign an "Order of Commitment" in the past when I was scheduled to appear in Federal Court. SEE: 78-70 NR 5.
13. That as of today, neither I nor Patricia have received the \$5,952.60 equity payment ordered paid to us in the alleged foreclosure sale.

/s/ EDDIE THOMPSON JR.
Eddie Thompson, Jr.

Subscribed and sworn to before me this 13th day of June 1983.
(SEAL)

/s/ ISIAH SMITH
Notary

My commission Expires:
1/18/84

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

PATRICIA THOMPSON,
EDDIE THOMPSON, JR.,

Petitioners-Plaintiffs,

vs.

78-57-81-5784

RICHARD NELSON,

And

79-40 81-5785

PEOPLES LIBERTY BANK; CARSON FURNITURE; GEORGE
WERMELING; RALPH HAILE; JUDY GUFFEY; RICHARD
NELSON; RICHARD SLUKICH; THOMAS A. EPPERSON;
JAMES TUCKER; TODD A. FINAN; JAMES LILES; BERNARD
SMITH; HENRY WARDEN; UNNAMED POLICE OFFICERS;
UNNAMED EMPLOYEES OF CARSON FURNITURE

And

78-70 81-5786

RICHARD SLUKICH; PEOPLES LIBERTY BANK;
RALPH HAILE; RICHARD NELSON,

Respondents-Defendants.

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Petitioners, Patricia and Eddie Thompson, Jr., respectfully
pray that a Writ of Certiorari issue to review the Judgment

and/or Order (Unpublished Decision) of the United States Court of Appeals for the Sixth Circuit, entered in the above styled case on March 10, 1983.

OPINION BELOW

The Orders of the Court of Appeals are annexed to this Petition as Exhibit A, this App. P. 1a. The Order denying Petition for Rehearing as annexed as Exhibit B, this App. P. 4a. The Mandate issued on May 12, 1983, Exhibit A, this App. P. 1a.

The orders and Judgments of the District Court are annexed as:

(78-57)

Exhibit C, D, H, K, L, — This App. Pp. 6a, 9a, 13a, 19a, 23a. 78-57, NR 14, 15, 19, 20, 21; 81-5784 App. p. 48, 50, 75, 77, 80

(78-70)

Exhibit C, E, I, K, M, — this App. Pp. 6a, 10a, 15a, 19a, 24a. 78-70, NR, 61, 62, 67, 68, 69; 81-5786 App. P. 115, 117, 148, 150, 153

(79-40)

Exhibit C, F, G, J, K, — this App. Pp. 6a, 11a, 12a, 16a, 19a. 79-40 NR 55, 56, 57, 63, 64; 81-5785 App. P. 176, 178, 179, 208, 210

JURISDICTION

The Order and/or Judgment of the Court of Appeals is annexed to this Petition as Appendix A, this Appendix page 1a. A timely-filed Petition for Rehearing was denied on May 4, 1983; Appendix B, this Appendix Page 4a. This Petition for Certiorari was filed within sixty (60) days of the Petition for Rehearing having been denied.

The Court's jurisdiction is invoked pursuant to 28 U.S.C.A. 1254(1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the U. S. Constitution provides — The right of the people to be secure in their persons, houses, papers, effects, against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fifth Amendment to the U.S. Constitution provides in pertinent part that, "No persons shall be . . . ; nor be deprived of life, liberty, or property, without due process; nor shall private property be taken for public use, without just compensation.

Pertinent parts of the Fourteenth Amendment provide that, "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

42 U.S.C. 1983 provides, "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proceeding for redress."

42 U.S.C. 1985(3) provides in pertinent part that, "If *two or more persons* in any state or territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving either directly or indirectly, any person or class of persons of equal protection of the law, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authority of any state or territory from giving or securing all persons

within such state or territory the equal protection of the laws; . . . in any such case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

K.R.S. 426.525 in pertinent part provides that, "Foreclosure of a mortgage is forbidden; provided, however, that this section shall not preclude a mortgagee after default from taking possession of property subject to the mortgage which has been abandoned by the mortgagor, for the purpose of preserving and maintaining the same, harvesting crops, or letting the same all to the account of the mortgagor; and any reasonable expenses incident thereto including taxes and insurance shall be added to the principal of the mortgage, and secured by it, for purpose of this section, property shall be deemed to have been abandoned when the mortgagor has moved from the property and when by the nature of the property in question when further neglect or failure to attend will decrease its value.

KRS 186.565 in pertinent part provides — Section (1):

Any person who operates a motor vehicle in this state is deemed to have given his consent to a chemical test of his blood, breath, urine or saliva for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages. The test shall be administered at the direction of law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages.

The law enforcement agency by which the officer is employed shall designate which of the aforesaid tests shall be administered, and provide necessary equipment.

Section (3) — If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency as provided in subsection (1) of this section, the requesting officer shall warn the person of the effect of his refusal to submit to the test. If the person again refuses, none shall be given, but the department of transportation, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, that the person refused to submit to the test upon the request of the law enforcement officer, and that the person again refused to submit to the test after the law enforcement officer warned him of the effect of his refusal, the department shall immediately serve notice to the person by certified mail to the last known residence address of the person or if the address is unknown, the last known business address of the person to appear before the secretary or his duly authorized agent and show cause why his license to operate a motor vehicle, or if said person is a non-resident his privilege to operate a motor vehicle within this state should not be revoked; or if the person is a resident without a license or permit to operate a motor vehicle in this state why that person should not be denied the issuance of a license or permit. The hearing shall be scheduled as early as practical but not sooner than ten (10) days after issuance of the notice and at a time and place designated by the secretary.

K.R.S. 189.520 in pertinent part provides — *Section (2)* — No person shall operate a motor vehicle anywhere in this state while under the influence of intoxicating beverage or drug which may impair one's driving ability. *Section (6)* — No person may be compelled to submit to any test specified in subsection (4) of this section, but his refusal to submit to such

test shall result in revocation of his license as provided in K.R.S. 186.565(3).

STATEMENT

The instant actions seek redress from Defendants who conspired to invade private premises and to deprive Plaintiff of real and personal properties, without due process of law.

This scenario began in 1975, when Petitioner (Eddie), a Negro, contested a city primary election. Compl. 78-57 NR 1, 78-70 NR 1, 79-40 NR 1.

The Kentucky Court of Appeals ruled, "There is no statutory authority for contest of a primary election for commissioner of a city of the second class with city-manager form of government." *Thompson v. Kenton County Board of Elections* 523 S.W. 2d 68 Cert. denied January 26, 1976, 96 S.Ct 873.

As a result of Petitioner (Eddie) contesting the election, Peoples Liberty Bank and its attorney, Mr. Richard Nelson, filed an alleged illegal foreclosure on Petitioner's home and other properties Petitioners had an interest in, in violation of K.R.S. 426.525.

Immediately following the foreclosure proceeding, September 14, 1977, the Bank filed a Forcible detainer action to gain possession of Petitioners' home. Subsequently, the Bank moved to dismiss their Forcible detainer action with prejudice. *Kenton Circuit Court #33430*. [The quarterback, Mr. Nelson admitted at pre-trial, "Counsel for the Bank became concerned because in my research, a forcible detainer action is a possessory action questioning the right to possession. Mr. Thompson had alleged that he was the lawful owner of the property where title may be questioned."] Pre-Trial Trans. Pg. 81, 81-5784 App. P. 171.

The Motion was granted and affirmed by the Kentucky Court of Appeals, No. 79-CA-1456 MR. The Kentucky Court of Appeals in affirming said, "... It is the Bank, not the Thompsons, as they perceive, who are prejudiced with respect to the proceeding. ... Since we have no jurisdiction over federal

courts, we will not comment on the issue raised pertaining thereto." Cert. denied *Thompson v. Peoples Liberty* 80-1358. Ex. P, this App. P. 29a, 79-40 NR 37, List of Exhibits # 28, 81-5785 App. P. 130.

After efforts to gain possession of Petitioners home had failed and on or about the 3rd day of April 1978, Mr. Nelson wrote Petitioners a letter advising, "... We can proceed ... and have a moving company just move you out of the house while my client takes possession ... If I do not hear from you in writing within 10 days ... We intend to proceed without further notice, as such is not required." Mr. Nelson admitted the letter at the pre-trial conference. Pre-trial Trans. P. 86, 87, - 81-5784 App. P. 176, 177.

On April 12, 1978, the Bank had a judge to sign an order and writ of possession, without notice or hearing to Petitioners. 79-40 NR 37, List of Exhibits # 16, 81-5785 App. P. 130.

On April 15, 1978, 3 Covington police officers beat Petitioner (Eddie) and brought false criminal charges against him (Eddie).

One of the police officers (T. Finan) threatened to put Petitioner (Eddie) in the river. Mr. Nelson and the Bank admitted they hired at least 7 police officers, including T. Finan. Interrogatories (Police Officer Smith), 79-40 NR-25, 81-5785, App. P. 83.

On July 19, 1978, without notice or hearing, the Bank had the Sheriff to execute the April 12, 1978 Writ and Order of Possession, while Petitioners were at work, by setting Petitioners' possessions upon the street. Compl. 79-40 NR 1.

On July 19, 1978, Police Officers James Liles and Bernard Smith produced a lease agreement between police officers and the Bank, whereby the police officers were to pay the Bank \$200 a month rent in advance on the 5th day of each month. 79-40, List of Exhibits # 12, 81-5785 App. P. 123.

The Bank and Mr. Nelson admit paying officers Liles and Smith \$5-an-hour. Pre-trial Trans. 88, 90, 81-5784 App P. 128, - 79-40, NR 25 - 81-5785 App. P. 83.

Armed police officers hired by the Bank occupied the Petitioners' home on a 24-hour-a-day basis (presenting an imminent threat to the lives and liberty of Petitioners) from July 19, 1978 to July 27, 1978, when friends of Petitioners (Thompsons) presented a petition to the Mayor and City Commissioners, demanding to know why police officers were occupying the Thompsons' home. Compl. 79-40 NR 1 - 81-5785 App. P. 12.

The Thompsons camped in a neighbors yard until police officers left on July 27, 1978, then moved back into their (Thompsons) home.

On July 29, 1978, Mr. Richard Slukich came to the Thompsons home, claiming he owned it (home), and had Petitioner (Eddie) arrested and charged with criminal trespass and burglary in the first degree. The warrant was not signed by any judge. Amended Compl. 78-70, NR 38 - 81-5786 App. P. 63.

Petitioners (Thompsons) were not allowed to file any complaint, concerning their home, in State court.

Petitioners (Thompsons) filed suit in Federal court (78-70, 81-5786) seeking to prevent Mr. Slukich from aiding the Bank, Mr. Nelson, and police officers hired by the Bank from wrongfully taking possession of Petitioners' home.

Attorneys Mr. Nelson and Mr. Slukich had Petitioner (Eddie) jailed without bond, so Petitioners could not initially pursue 78-70 in Federal court.

Petitioner (Eddie) had to petition the Federal court for habeas corpus to attend a hearing on a Motion for a temporary restraining order. 78-70 NR 6, 81-5786, App. P. 23.

Police officers hired by the bank prevented the Thompsons from entering their (Thompsons) home after July 29, 1978. The Thompsons' home was now locked, and the Thompsons were the only ones with a key to their (Petitioners) home.

To gain entrance to Petitioners' (Thompsons) home, subsequent to July 29, 1978, the Bank, Mr. Nelson and/or Mr. Slukich hired persons unknown to Petitioners (Thompsons) to break into Petitioners' home and change the locks on the

doors, while police officers paid by the Bank stood watch. Petitioner (Eddie) took pictures of the men breaking and entering into Petitioners' home. 79-40, NR 1, 81-5785 App. P. 13.

At a later date, the Bank, Mr. Nelson, and/or Mr. Slukich had all of Petitioners' personal possessions stolen from Petitioners' home. Some of these possessions ended up at Carson Furniture. Compl. 79-40 NR 1.

The Bank allegedly bought Petitioners' home at its (Bank) foreclosure sale for \$14,500. At the time of the alleged sale Mr. Nelson let it be known that Petitioner (Eddie) would be arrested on false criminal charges (list of Exhibits Ex. 21, 79-40 NR 37, 81-5185 App. P. 128) brought by a police officer, if he (Eddie) appeared at the alleged sale.

The Bank retained the \$5,952.60 equity ordered paid to Petitioner. Pre-Trial Trans. P. 79. SEE affidavit of Petitioner (Eddie) Ex. Q, this Pet. P. ix.

While Mr. Slukich was maintaining criminal charges against Petitioner (Eddie) the Bank allegedly made a sale of Petitioners' home (a sale that did not involve Mr. Slukich) to a family on welfare for \$48,500.

A pre-trial conference was held on June 27, 1980. In the pre-trial order, the court ordered the parties, inter alia, to:

- (1) Meet with each other to exchange list of witnesses . . . and a summary of expected testimony.
- (2) Complete all discovery
- (3) Display . . . Exhibits, whether admissible as Exhibits or not.
- (4) Enter into a written stipulation — 78-57 NR 10 81-5874 App. P. 19; 78-70 NR 49 81-5786 App. P. 73; 79-40 NR 18 81-5785 App. P. 62.

[We may note: All Defendants' counsel wilfully refused to obey the pre-trial order. At the trial of Epperson, Finan, and Tucker — when the court asked Mr. McMurtry why he

(McMurtry) did not comply with the pre-trial order, Mr. McMurtry replied, "Your Honor, there was no pre-trial conference, mainly because the other Defendants in the case said, 'They felt it would be fruitless to enter into any pre-trial negotiations with the Plaintiffs'." 79-40 Trial Transcript Pg. 10 – 81-5785 App. P. 230. Mr. McMurtry was aware that the DUI charges were dismissed. Trial Transcript P. 58 – 81-5784, App. P. 278.

At the pre-trial conference all three cases were consolidated. 79-40 NR 43 – 81-5785 App. P. 152.

Mr. Haile and Mr. Nelson wilfully refused to answer interrogatories. 79-40 NR 19, 20 – 81-5785 App. P. 66, 68.

In its pre-trial order, 79-40, NR 43 – 81-5785 App. P. 91, even though the Bank and Mr. Nelson admitted hiring at least 7 police officers [including T. Finan who participated in the beating of Petitioner (Eddie)], the Court considered the beating of Petitioner (Eddie) by 3 police officers on April 15, 1983 as "use of excessive force against plaintiff in the course of an arrest."

Petitioner's (Plaintiff) claim was that Mr. Nelson and the Bank had hired these police officers to take care of (beat) Petitioner (Eddie). Amendment of Pleading 78-57 NR 5, 81-5784 App. P. 11 – 79-40 NR 1, 81-5785 App. P. 11.

The Court considered Defendants Motions to dismiss, with regards to all other claims as supplemented by court records ordered to be filed at pre-trial conference as Motion for Summary Judgment.

At the pre-trial conference:

Mr. Nelson was ordered to file the certified record from the State court as to the foreclosure at 736 Highland Avenue (Petitioners' home) Order 79-40 NR 43 – 81-5785 App. P. 152, Ex. N, this App. P. 22a, Pre-trial Trans. 40, 103, 116; 81-5784, App. P. 130, 193, 206.

The certified record in 33430 (79-CA-1456 MR) was not made available to the Court and Mr. Nelson's Affidavit, which he (Nelson) did not serve upon Plaintiffs, was fraudulently intended. 79-40 NR 42 – 81-5785 App. P. 151, Ex. O, this App.

P 28a. Mr. Nelson made no mention of case No. 31503 which was the original foreclosure. The record in that case has been botched.

Counsel for Defendant Slukich was ordered to make the warrant and Complaint of State court criminal trespass case referred to at the pre-trial conference a part of the record herein.

Counsel for Defendant Slukich did not make the warrant and complaint a part of this record. The certified copy of the warrant presented was fraudulently intended. No judge signed the original warrant.

At the trial, Mr. McMurtry knew that the charge of DUI had been dismissed by the Circuit Court and his response to Motion (79-40 NR 58 – 81-5785 App. P. 180) was fraudulently intended when he (McMurtry) said, "After Thompson's Appellate efforts end, one suspects his license will be revoked."

REASON FOR GRANTING WRIT

At the threshold, we are confronted with 2 questions:

1. Whether Petitioners (Plaintiffs) complaints alleged that, "Police Officers Epperson, Finan, and Tucker had allegedly used excessive force against Plaintiff in the course of an arrest occurring on April 15, 1978. Pre-trial Order 79-40 NR 57, 81-5785, App. P. 91, 92 Exhibit N, this App. P. 22a

or

2. Whether Petitioners (Plaintiffs) alleged that on or about April 15, 1978, Mr. Nelson had conspired to cause certain policemen to beat Petitioner (Eddie) for no just cause. Amendment of Pleadings as of Course, 78-57 NR, 81-5784 P. 11, and in 79-40 NR 1, 81-5785 App. P. 9, 10, 11, Petitioners (Plaintiffs) by verified complaint, alleged, inter alia, (15)

that Mr. Nelson intended to use police officers to execute a writ of possession dated April 12, 1978; (36) that Epperson, Finan, and Tucker kicked and beat Eddie Thompson, Jr. nearly unconscious; (45) that Richard Nelson engaged these police officers to beat Eddie Thompson, Jr.

The latter question as stated in the complaint is denied by no one in this case.

The court consolidated these cases. Thus, allegation of pleadings in one action are treated as admission in other action. *IN RE Double D Dredging Co.* 467 F 2d 468 5th Cir.

The District Court separated the beating incident allegedly caused on April 15, 1978, by the Bank and Mr. Nelson.

An order pursuant to F. R. Civ. P. 42 separating issues for trial is an unappealable interlocutory order. *Helena Curtis Industries v. Church and Dwight* 560 F.2d 1325 7th Cir.

The Bank and Mr. Nelson were indispensable parties to any trial of the beating incident.

We have a case here where everyone agrees that Petitioner (Eddie) was beaten by Epperson, Finan, and Tucker.

No one seems to be able to explain how 2 of the 3 police officers arrived at the scene without being dispatched by the dispatcher. No one, including the dispatcher, heard Epperson make a call to Finan or Tucker.

Officer Epperson claims that Petitioner (Eddie) kicked him in the groin. Need we speculate on what would have happened to anyone who kicked a policeman in the groin? No matter what the circumstances were.

Now, let us remember, Officer Epperson said Petitioner (Eddie) ran him (Epperson) off the road; then Officer Epperson offered to call Eddie a cab; offered to call Eddie's best friend, and he (Epperson) did not even know Eddie . . . or so Epperson claims. Trial Trans. 183, 184, 185 — 82-5785 App. P. 404, 405, 406, etc.

Epperson, Finan, and Tucker claimed Eddie was drunk, and he refused the breathalyzer, contra to K.R.S. 186.565(3).

Kentucky Law K.R.S. 189.520(6) provides — No person may be compelled to submit to any test specified in subsection (4) of this section, but his refusal to submit to such test shall result in revocation of his license as provided in K.R.S. 186.565(3).

K.R.S. 186.550 provides that — The court having jurisdiction over offense shall report convictions and send licenses to Department *Phillips v. Reeves* 231 S.W. 2d 63.

Common sense would tell us, — If there had been a conviction or a refusal to take a breathalyzer test, then Petitioner's (Eddie) license would have been suspended. (SEE Affidavit of Petitioner Eddie) This Petition P. ix.

"Circuit courts and inferior courts have mandatory power to suspend licenses of driver convicted of driving while intoxicated." *Commonwealth v. Harris* 128 S.W. 2d 579, *Commonwealth, Dept. of Public Safety v. Cox* 467 S.W. 2d 603. K.R.S. 186.560(1)(b) provides mandatory revocation of driving license upon receiving record of conviction of driving a vehicle while under the influence of intoxicating liquor. *Commonwealth, Dept. of Public Safety v. Tuemler* 526 S.W. 2d 305.

Mr. McMurtry is well aware that no court has reported any conviction of driving a vehicle while intoxicated (DUI), nor has any officer made any sworn statement (pursuant to K.R.S. 189.520) to the Department that Eddie has refused to submit to any test provided by law.

Mr. McMurtry: "I'll stipulate that . . . whatever the statute is I'll stipulate to the wording . . ."

The Court: "It is stipulated that Mr. Thompson's drivers license were never revoked as result of this incident or any other incident." Trial Trans. P. 270, 272; 81-5785 App. P. 429, 494.

"A party is bound by what he stipulates." *Morlock v. NCR Corporation* 586 F 2d 1096 (6th Cir. 1978).

Any argument to a jury on presumption of intoxication was error. *Marcum v. Commonwealth* 483 S.W. 2d 122.

Mr. McMurtry knew he was out of bounds when he argued

to the jury that Petitioner (Eddie) was drunk when Epperson, Finan, and Tucker beat him (Eddie).

Typical of the answers given by Epperson, Finan, and Tucker — Finan: "I'd have to guess to answer most of the questions you've asked me today." Trial Trans. P. 124, 81-5785 App. P. 344.

Discussions and application of the "preclusion" doctrines of *res judicata* and collateral estoppel are well settled and are open to limited debate.

The trial court ordered Mr. Nelson to file the certified records in the foreclosure proceeding. Ex. N, this App. P. 25a — Pre-Tr. Trans. P. 40, 103, 116; 81-5784, App. P. 130, 193, 206.

Mr. Nelson neglected to file the certified record, but Mr. Nelson did file an Affidavit that he neglected to serve upon Petitioners or other parties.

In Mr. Nelson's affidavit, he makes reference to Kenton Circuit Court case # 33430 (Kentucky Court of Appeals 79-CA-1456 MR, Ex. O, this App. P. 28a).

In # 33430, Petitioner won the right to possession of the real estate involved in the case. (The Bank had sought possession of Petitioner's property. The Bank then sought dismissal of its action with prejudice.)

Judgment or decree of dismissal with prejudice is as conclusive of the rights of the parties as if the suit had been prosecuted to a final adjudication adverse to plaintiff. *Union Idem Co. v. Benton Lumber Co.* (1929 ARK) 18 S.W. 2d 327, *Olsen v. Muskegon Piston Ring Co.* (1941 6th Cir.) 117 F 2d 163.

Where the title and possession of land are both brought in question by reason of the alleged unlawful entry, the result of the litigation determines the question of title. *Chapman v. Shannan* 6 Ky. Opin. 30 And complainant must rely on strength of his own title rather than on weaknesses of his adversary's. *Tipton v. Smith* (Tenn 1979) 593 S.W. 2d 298.

Where a former recovery is given in evidence, it is equally conclusive, in its effect, as if it were specially pleaded by way of estoppel . . . and a right, question, or fact distinctly put in

issue and directly determined by a court of competent jurisdiction, as a ground of recovery, cannot be disputed in a subsequent suit between the same parties or their privies. *Southern Pacific R. Co. v. United States* 168 U.S. 1, 48-49.

We may note that the State court declined to entertain Petitioners' federal claim, saying, "Since we have no jurisdiction over Federal courts, we will not comment on the issue raised pertaining thereto." 79-CA-1456 MR, Ex. P, this App. Pp. 29a, 30a.

In this State a judgment foreclosing a mortgage as commonly expressed, does not divest title or confer possession. *K.R.S. 426.525, Springfield Fire and Marine Ins. Co. v. Phillips* 16 K.L.R. (Abstract) 390 . . . Nor does the mortgage convey an estate in the land to the mortgagee. *Morgan v. Wickliffe* 24 K.L.R. 1039, 70 S.W. 680.

Any person in peaceful and quiet possession of land shall not be turned out by the strong hand, by force or by terror . . . The policy of the law is to require that party who has in this manner obtained possession shall restore it to the party from whom it had been so obtained. *Iron Mountain and Helena Railroad v. Johnson* 119 U.S. 608, 30 LEd 504.

Considering this case, based upon the facts and principles involved, it seems to be opposed to all of the principles upon which the rights of citizens hinge. In such case there is no safety for the citizen, except in protection of the judicials, for rights which have been invaded by officers (of the law) professing to act for it. There remains to him, but the alternative of resistance which may amount to a crime. *Bivens Supra* 403 U.S. 388, *Monroe v. Pape* 365 U.S. 167.

Mr. Slukich admits that he knew about the judgment in 79-CA-1456 MR. Response to Plaintiff Motion, 78-70 NR 40, 81-5786 App. P. 66, 67. His (Slukich) acceptance of a deed for \$1 is further proof of the conspiracy alleged in these cases.

Inadequacy of consideration for a conveyance is a badge of fraud. *Hayes v. Rodger* (Ky) 447 S.W. 2d 597.

In an action against a bank and its employees (police offi-

cers) alleging, inter alia, false imprisonment, defendant was liable. *Traver v. Meshriy* 627 F 2d 934, 56 A.L.R. Fed. 885.

When a Federal court is properly appealed to in a case over which it has by law jurisdiction, it is the duty to take such jurisdiction. *England v. Louisiana Medical Examiners* 375 U.S. 411, 415.

Among the civil rights intended to be protected from discriminatory state action by the Fourteenth Amendment are the rights to acquire, enjoy, own, and dispose of property. *Lynch v. Household Finance Corp.* 405 U.S. 538, 552; *Jones v. Mayer Co.* 392 U.S. 409, 420; *Shelley v. Kraemer* 334 U.S. 1, 10; *Kalb v. Fuerstein*, 308 U.S. 434.

Perhaps in time Defendant will shed some light on issues presented herein, by explaining why they (Defendants) wilfully refused to comply with the Court's pre-trial order, or why Mr. Haile and Mr. Nelson refused to answer interrogatories. 79-40, NR 19, 20.

Trials in Federal court no longer need to be carried on in the dark . . . Discovery serve (1) as a device, along with the pre-trial hearing under Rule 16 to narrow and clarify the basic issues between are parties; and (2) a device for ascertaining the facts or information as to the existence of whereabouts of facts relative to those issues. *Hickman v. Taylor* 329 U.S. 500.

By now, it should be obvious that summary judgment for defendants in this case is clearly erroneous.

A summary judgment against a plaintiff will be vacated and the cause will be remanded, where district court's order is opaque and unilluminating as to either the relevant facts or law with respect to the merits of plaintiffs claim. *Carter v. Stanton* 405 U.S. 669, 671.

It is well settled that when a motion for summary judgment is made and supported as provided in Rule 56(e), an adverse party may not rest upon the mere allegations or denials of his pleading, but his response by Affidavits or as otherwise provided in the Rule must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall enter against him.

First National Bank v. Cities Service Co. 391 U.S. 253, 288; *R. E. Cruise, Incorporated v. Bruggman* 508 F 2d 415 (1975 6th Cir.).

Where the party responding to a motion for summary judgment fails to file any affidavit or other supporting material in opposition to those filed by the moving party, the facts presented in the moving party's affidavits must be considered established. *Kemper v. American Broadcasting Co.* 365 F Supp. 1275.

Any extra pleading matter presented must be either dispositions, admissions, or affidavits. *Sardo v. McGrath* 196 F 2d 20, 22.

Civil Rights Attorney Fees Awards Act of 1976 was intended as incentive for private enforcement of civil rights and serves as general avenue for award of attorney fees following action under 1871 Civil Rights Statute. 42 U.S.C. 1983, 1988; *Christianburg Garment v. E.E.O.C.* 434 U.S. 422.

Courts of Appeals have intervened when district court has abused its discretion in an award of attorney fees. *Faraci v. Hickey Freeman Co.* 607 F 2d 1025.

The District Court abused discretion by not following any standard procedure in awarding counsel fee of Defendant. *Lindy Bros. Bldrs. v. Amer. R & S San Corp.* 487 F 2d 161.

In *Perkinsky v. Standard Oil Co.* 399 U.S. 222, the Supreme Court stated, "The amount of award for such services should, as a general rule be fixed in the first instance by the District Court after hearing evidence as to the extent and nature of service rendered."

If we examine Mr. Slukich's request, 78-70 NR 63, 81-5786, App. P. 119, 123 Vol 2, we find Mr. Slukich spent his money trying to get some title insurance on Petitioner's home — so he could prove in court that he owned the Thompson home by virtue of the deed the Bank had given him (Slukich). We may note that at the time of the pre-trial conference, Mr. Slukich still was unable to obtain title insurance.

The award of attorney fees to defendants in these cases appears not to meet the congressional intent in *Christianburg*

Garment v. E.E.O.C. 434 U.S. 422; *Accord Hughes v. Rowe* 449 U.S. 4.

Court should be especially solicitous of civil rights plaintiffs, and see that a civil rights complaint should not be dismissed, unless it appears to a certainty that the plaintiff would not be entitled to relief under any legal theory which might plausibly be suggested by the facts alleged. This solicitude for a civil rights plaintiff must be heightened, said the court, when he appears pro se, since in the great run of pro se cases the issues are faintly articulated and often dimly perceived, with the result that there is a greater responsibility upon the court to insure that constitutional deprivations are redressed. *Canty v. Richmond, Virginia, Police Department* 383 F Supp. 1396, Affirmed 526 F 2d 587.

This case could include a moral interpretation of K.R.S. 426.525.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that this Petition for Certiorari should be granted.

The Judgment below is a bizarre and unique departure from rules and decisions of this Court that have traditionally insured that Constitutional deprivations are redressed.

As to the State law issue, it is clear that Petitioners were entitled to possession of their real and personal property. *Thompson v. Peoples Liberty Bank* 79-CA-1456 MR. Ex. P, this App. P. 29a.

A litigant is in no event to be denied his right to return to Federal court unless it clearly appears that he fully litigated his Federal claims in the State court. *England v. Louisiana Medical Examiners* 375 U.S. 417.

Upon Petitioners uncontroverted Motion for Summary Judgment in the District Court, summary reversal is appropriate here, with directions.

PATRICIA THOMPSON, Pro Se

EDDIE THOMPSON, JR., Pro Se

CERTIFICATE OF SERVICE:

I hereby certify that 3 copies of the foregoing Petition have been served by the United States mail this day of June 1983, upon: Mr. Robert W. Carran, 314 Greenup Street, Mr. Stephen Wolnitzek, 1 W. 6th Street, Mr. Rodney Bryson, 600 First National Bank Building, Mr. Richard Nelson, 11 W. 6th Street, Mr. Stephen McMurtry, 906 City-County Building, all of Covington, Kentucky 41011; Mr. Burr Travis, 30 Shelby Street, Florence, Kentucky 41042; Mr. Steve Beshear, Kentucky Attorney General, Capitol Building, Frankfort, Kentucky 40601; and Mr. William F. Smith, United States Attorney General, Washington, DC.

PATRICIA THOMPSON

EDDIE THOMPSON, JR.

EXHIBIT A

NOT RECOMMENDED FOR
FULL TEXT PUBLICATION

No. 81-5784

No. 81-5785

No. 81-5786

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

[Filed March 10, 1983]

EDDIE THOMPSON, JR.,

PATRICIA THOMPSON,

Plaintiffs-Appellants
(81-5784)

v.

RICHARD NELSON,

Defendant-Appellee,

and

PEOPLE'S LIBERTY BANK; CARSON FURNITURE; GEORGE
WERMELING; RALPH HAILE; JUDY GUFFEY; RICHARD
NELSON; RICHARD SLUKICH; THOMAS E. EPPERSON;
JAMES TUCKER; TODD A. FINAN; JAMES LILES; BERNARD
SMITH; HENRY WARDEN; UNNAMED POLICE OFFICERS;
UNNAMED EMPLOYEES OF CARSON FURNITURE

Defendants-Appellees (81-5785),

and

RICHARD SLUKICH; PEOPLES LIBERTY BANK;

RALPH HAILE; RICHARD NELSON,

Defendants-Appellees (81-5786)

ORDER

Before: LIVELY and ENGEL, Circuit Judges; and SWYGERT, Senior District Judge.*

The plaintiffs appeal from judgments for the defendants and awards of attorneys' fees in these consolidated civil rights cases, which have been referred to a panel of the Court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination of the briefs and record, this panel agrees unanimously that oral argument is not needed. Rule 34(a), Federal Rules of Appellate Procedure.

The plaintiffs allege various acts of harassment flowing from and including what they claim to be the illegal foreclosure of the mortgage on their residence. They further claim that the motives behind these acts were racial discrimination and the fact that Eddie Thompson contested a 1975 election. The district judge ordered a trial on the use of excessive force by the defendant police officers when they arrested Eddie Thompson. The jury returned a special verdict finding that the police officers had not used excessive force, and judgment was entered for these defendants. The district judge then granted motions for summary judgment in favor of the remaining defendants. Finally, the judge awarded attorneys' fees to the defendants, other than the police officers.

As to the trial on the issue of excessive force used by the police officers, the plaintiffs argue that the verdict was not supported by the evidence, that the bank officers should have been joined with the police officers, that the trial court failed to properly instruct the jury, and that opposing counsel was allowed to make impermissible statements. We find these contentions to be without merit.

The plaintiffs also claim that they were entitled to a directed verdict or judgment N.O.V. Based upon the evidence presented, these contentions are also without merit. *National*

* The Honorable Luther M. Swygert, Senior Judge for the U.S. Court of Appeals for the Seventh Circuit, sitting by designation.

Polymer Products, Inc. v. Borg-Warner Corporation, 660 F.2d 171 (6th Cir. 1981); *Coffy v. Multi-County Narcotics Bureau*, 600 F.2d 570 (6th Cir. 1979).

The district court was correct in granting the summary judgment motions of the remaining defendants, because the plaintiffs failed to present any specific facts which supported their civil rights claims but chose to rely on the conclusory allegations of their pleadings. *R. E. Cruise, Incorporated v. Bruggeman*, 508 F.2d 415 (6th Cir. 1975); Rule 56(e), Federal Rules of Civil Procedure.

Finally, we cannot say that the district judge abused his discretion in awarding attorneys' fees. *Tonti v. Petropoulos*, 656 F.2d 212 (6th Cir. 1981); see *Hughes v. Rowe*, 449 U.S. 5 (1980); *Christianburg Garment Company v. E.E.O.C.*, 434 U.S. 412 (1977).

Accordingly, it is ORDERED that the judgment of the district court be affirmed. Rule 9(d)(3), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

/s/ JOHN P. HEHMAN
Clerk

ISSUED AS MANDATE: MAY 12, 1983
COSTS: NONE

[CERTIFICATION OMITTED]

EXHIBIT B

No. 81-5784

No. 81-5785

No. 81-5786

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

[Filed May 4, 1983]

EDDIE THOMPSON, JR.,

PATRICIA THOMPSON,

Plaintiffs-Appellants,

v.

RICHARD NELSON,

(81-5784)

and

(81-5785)

PEOPLES LIBERTY BANK; CARSON FURNITURE; GEORGE
WERMELING; RALPH HAILE; JUDY GUFFEY; RICHARD
NELSON; RICHARD SLUKICH; THOMAS A. EPPERSON;
JAMES TUCKER; TODD A. FINAN; JAMES LILES; BERNARD
SMITH; HENRY WARDEN; UNNAMED POLICE OFFICERS;
UNNAMED EMPLOYEES OF CARSON FURNITURE,

and

(81-5786)

RICHARD SLUKICH; PEOPLES LIBERTY BANK;

RALPH HAILE; RICHARD NELSON,

Defendants-Appellees.

ORDER

BEFORE: LIVELY and ENGEL, Circuit Judges; and SWYGERT, Senior Circuit Judge.*

Upon receipt and consideration of a petition for rehearing, or alternatively, for rehearing en banc in the above styled case; and,

No judge in active service in this Court having moved for rehearing en banc, and the motion therefore having been referred to the panel which heard the case; and,

The panel having noted nothing of substance in said motion for rehearing which had not been carefully considered before the issuance of the Court's order of March 10, 1983,

Now, therefore, it is ORDERED that the motion for rehearing or rehearing en banc be, and it hereby is, denied.

ENTERED BY ORDER OF THE COURT

/s/ JOHN P. HEHMAN
Clerk

* The Honorable Luther M. Swygert, Senior Judge for the U.S. Court of Appeals for the Seventh Circuit, sitting by designation.

EXHIBIT C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CONSOLIDATED CIVIL ACTION
NOS. 78-57, 78-70 and 79-40

No. 78-57

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD NELSON

Defendant

No. 78-70

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD SLUKICH, ET AL

Defendant

No. 79-40

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

PEOPLE'S LIBERTY BANK, ET AL

Defendant

ORDER

(Filed October 29, 1980)

On September 26, 1980, this court consolidated the three above actions brought by the plaintiff, Eddie Thompson. All three actions alleged a conspiracy to deprive the plaintiff of his Civil Rights through the foreclosure of the plaintiff's home and subsequent eviction of the plaintiff. The plaintiff has additionally alleged various acts of harassment, all done in concert to deprive him of his Civil Rights. One of these alleged acts of harassment, the use of excessive force in effecting an arrest by defendant police officers Epperson, Tucker, and Finan was tried by a jury on October 23rd and 24th of 1980, with the plaintiff appearing pro se. The jury returned for the defendants. The court is now faced with the question of the liability of the remaining individual and institutional defendants on cross-motions for summary judgment.

The court in an exhaustive search of the record, and after extensive pretrial conferences with the parties, concluded that the plaintiffs were attempting to convert a state action into a federal one by conclusionary allegations of conspiracy and race-motive animus. The plaintiffs were given 30 days from September 26, 1980, to file additional memoranda and affidavits in opposition to the defendant's motion for summary judgment and to allow the plaintiffs to flesh out their allegations concerning conspiracy and race-motivated actions.

The plaintiffs have filed extensive affidavits and memoranda in support of their position. After careful scrutiny of these documents, the court must conclude the plaintiffs have no evidence to offer of either racial animus or a conspiracy to deprive the plaintiffs of their constitutional rights. It is clear that there is no dispute as to the material facts of the case. The plaintiffs would have this court believe that the foreclosure and eviction were deliberate conspiracies against them based simply on the fact such events took place. As the record clearly discloses the legality of the foreclosure and subsequent eviction has already been extensively litigated in state court. Therefore, the court being advised,

IT IS ORDERED as follows:

1. That the defendants' motion for summary judgment are granted.
2. That the plaintiff's motion for summary judgment is denied.
3. That the defendants have 10 days from the date of this order to file a request for attorney's fees.

A separate judgment has been filed concurrently herewith.
This 29th day of October, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

EXHIBIT D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION NO. 78-57

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD NELSON

Defendant

JUDGMENT

(Filed October 29, 1980)

In accordance with the order entered concurrently herewith,

IT IS ORDERED AND ADJUDGED that the complaint be, and hereby is, dismissed, with prejudice, at the cost of the plaintiff.

This 29th day of October, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

[CERTIFICATION OMITTED]

EXHIBIT E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION 78-70

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD SLUKICH, ET AL

Defendant

JUDGMENT

(Filed October 29, 1980)

In accordance with the order entered concurrently herewith,

IT IS ORDERED AND ADJUDGED that the complaint be, and hereby is, dismissed, with prejudice at the cost of the plaintiff.

This 29th day of October, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

[CERTIFICATION OMITTED]

EXHIBIT F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION 79-40

EDDIE THOMPSON, JR., ET AL
Plaintiff

vs.

PEOPLE'S LIBERTY BANK, ET AL
Defendant

JUDGMENT

(Filed October 29, 1980)

In accordance with the order entered concurrently herewith,

IT IS ORDERED AND ADJUDGED that the complaint be, and hereby is, dismissed, with prejudice, at the cost of the plaintiff.

This 29th day of October, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

[CERTIFICATION OMITTED]

EXHIBIT G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION NO. 79-40

EDDIE THOMPSON, JR.

Plaintiff

vs.

THOMAS EPPERSON, JAMES TUCKER
AND TODD FINAN

Defendants

JUDGMENT

(Filed October 31, 1980)

This action came on for trial on October 23, 1980 before the Court and a jury, Honorable William O. Bertelsman, District Judge, presiding, and the issues between Eddie Thompson, Jr., plaintiff, and Thomas Epperson, Todd Finan, and James Tucker, defendants having been duly tried and the jury having duly rendered its answers to interrogatories for a special verdict agreed to by the litigants,

IT IS ORDERED AND ADJUDGED that the plaintiff, Eddie Thompson, Jr. take nothing from the defendants, Thomas Epperson, Todd Finan, and James Tucker, that his complaint against them be dismissed, and that they recover of Eddie Thompson, Jr. the costs of this action.

Dated at Covington, Kentucky, this 31st day of October, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

Distribution:

Eddie Thompson, Jr., pro se

Stephen T. McMurtry, Attorney for Defendants

EXHIBIT H

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION NO. 78-57

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD NELSON

Defendant

ORDER

(Filed December 12, 1980)

This case is before the court on the motion of the plaintiff for reconsideration of the order and judgment of October 29, 1980, granting summary judgment for the defendant.

On September 26, 1980, this court consolidated the above action with *Eddie Thompson, et al. v. Richard Slukich, et al.*, Civil Action No. 79-70, and *Eddie Thompson, Jr., et al. v. People's Liberty Bank, et al.*, Civil Action No. 79-40. All three actions alleged a conspiracy to deprive the plaintiff of his civil rights through the foreclosure of the plaintiff's home and subsequent eviction of the plaintiff. The plaintiff additionally alleged various acts of harassment, all allegedly done in concert to deprive him of his civil rights. On Oc-

tober 29, 1980, this court granted summary judgment on behalf of the defendant Richard Nelson. The plaintiff fails to bring any new information to the attention of the court or to make any persuasive argument which would leave the court to believe that it was wrong in granting summary judgment for the defendant.

Therefore, the court being advised,

IT IS ORDERED that the motion for reconsideration of the order of October 29, 1980, granting summary judgment against the defendant Richard Nelson be, and hereby is, denied.

This 11th day of December, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

EXHIBIT I

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION NO. 78-70

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD SLUKICH, ET AL

Defendant

ORDER

(Filed December 12, 1980)

This case is before the court on the motion of the plaintiff for reconsideration of the order and judgment of October 29, 1980, granting summary judgment for the defendants.

On September 26, 1980, this court consolidated the above action with *Eddie Thompson, Jr. et al. v. Richard Nelson*, Civil Docket No. 78-57 and *Eddie Thompson, Jr. et al. v. People's Liberty Bank, et al*, Civil Action No. 79-40. All three actions alleged a conspiracy to deprive the plaintiff of his civil rights through the foreclosure of the plaintiff's home and subsequent eviction of the plaintiff. The plaintiff additionally alleged various acts of harassment, all allegedly done in concert to deprive him of his civil rights. On October 29, 1980, this court granted summary judgment on behalf of all defendants in this action. The plaintiff fails to bring any new information to the attention of the court or make any persuasive argument which would leave

the court to believe that it was wrong in granting summary judgment for the defendants.

Therefore, the court being advised,

IT IS ORDERED that the motion for reconsideration of the order of October 29, 1980, granting summary judgment against the defendants be, and hereby is, denied.

This 12th day of December, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

EXHIBIT J

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION NO. 79-40

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

PEOPLE'S LIBERTY BANK, ET AL

Defendant

ORDER

(Filed December 12, 1980)

This case is before this court on the motion of the plaintiff for reconsideration of the order and judgment of Oc-

tober 29, 1980, granting summary judgment for the defendant, and a motion for judgment notwithstanding the verdict as to the defendants Epperson, Tucker and Finan.

On September 26, 1980, this court consolidated the above action with *Eddie Thompson, Jr. et al v. Richard Nelson*, Civil Docket No. 78-57 and *Eddie Thompson, et al. v. Richard Slukich, et al*, Civil Action No. 78-70. All three actions alleged a conspiracy to deprive the plaintiff of his civil rights through the foreclosure of the plaintiff's home and subsequent eviction of the plaintiff. The plaintiff additionally alleged various acts of harassment, all allegedly done in concert to deprive him of his civil rights. One of these alleged acts of harassment, the use of excessive force in effecting an arrest by defendant and police officers Epperson, Tucker and Finan was tried by a jury on October 23rd and 24th of 1980, with the plaintiff representing himself. The jury returned for the defendants. On October 29, 1980, this court granted summary judgment on behalf of all remaining defendants. Also on that date the plaintiff Thompson filed a motion for judgment notwithstanding the verdict or alternatively a motion for a new trial seeking to set aside the verdict for the defendants in the trial of Epperson, Tucker and Finan.

The plaintiff in support of his motion for a judgment notwithstanding the verdict argues essentially that the evidence did not support the jury's verdict. It is clear to this court that the evidence overwhelmingly supported the verdict of the jury. Therefore, a judgment notwithstanding the verdict or an order directing a new trial would be improper.

The plaintiff in addition has filed a motion for reconsideration of the summary judgment granted on October 29, 1980. The plaintiff fails to bring any new information to the attention of the court or make any persuasive argument which would leave the court to believe that it was wrong in granting summary judgment for the defendants.

Therefore, the court being advised,

IT IS ORDERED as follows:

1. That the motion notwithstanding the verdict, or in the alternative a new trial, be, and hereby is, denied.

2. That the motion for reconsideration of the order and judgment of October 29, 1980, granting summary judgment against remaining defendants be, and hereby is, denied.

This 12th day of December, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

Copies to:

E. Thompson, Jr.

B. Travis

S. McMurtry

R. Carran

R. Nelson

12-15-80

LBB

EXHIBIT K

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CONSOLIDATED CIVIL ACTION NOS.
78-57, 78-70 and 79-40

78-57

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD NELSON

Defendant

78-70

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD SLUKICH, ET AL

Defendant

79-40

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

PEOPLE'S LIBERTY BANK, ET AL

Defendant

ORDER

(Filed December 18, 1980)

This matter comes before the court on the motions of the various defendants, in the above consolidated actions, seeking an award of attorney's fees pursuant to 42 U.S.C. § 1988.

On September 26, 1980, this court consolidated the three above actions brought by the plaintiffs Eddie Thompson, Jr. and his wife, Patricia Thompson. All three actions alleged a conspiracy to deprive the plaintiffs of their civil rights in the foreclosure of the plaintiffs' home and subsequent eviction of the plaintiffs. The plaintiffs additionally alleged various acts of harassment, all allegedly done in concert to deprive them of their civil rights. One of these alleged acts of harassment, the use of excessive force in effecting an arrest by defendant and police officers Epperson, Tucker and Finan was tried by a jury on October 23rd and 24th of 1980, with the plaintiffs representing themselves. The jury returned for the defendants. On October 29, 1980, this court granted summary judgment on behalf of all remaining defendants.

Now, the defendant Richard Slukich, by and through his counsel, Steven D. Wolnitzek, seeks an award of attorney's fees totaling \$2,628.13 for work expended in Civil Action No. 78-70.

The defendants People's Liberty Bank and Richard Haile, by and through their counsel Richard S. Nelson, seek an award of attorney's fees for work expended in Civil Action Nos. 78-70 and 79-40. In addition, James Liles and Bernard Smith seek through and by their counsel Richard Nelson, attorney's fees for work expended in Civil Action 79-40. In the same motion the defendant Richard Nelson seeks in propria persona, attorney's fees expended in his own defense in Civil Action 78-57, 78-70 and 79-40. In addition, the above defendants make an argument that fees for numerous other vexatious actions brought by the plaintiffs

against these and other defendants should be awarded to the defendants through the inherent powers of the court. However, the court is not inclined to consider awarding fees for any but the above consolidated cases.

The defendants Epperson, Finan and Tucker, by and through their counsel Steven McMurtry, seek attorney's fees for work expended in Civil Action 79-40.

The Supreme Court in *Christiansburg Garment Company v. E.E.O.C.*, 434 U.S. 412 (1977) set out requirements for an award of attorney's fees under 42 U.S.C. § 2000E-5(k) to the defendants when they prevail. The language of that statute is identical to that of 42 U.S.C. § 1988 and the Supreme Court's construction of 42 U.S.C. § 2000E-5(k) is applicable to the awarding of attorney's fees to defendants under § 1988. *Lopez v. Arkansas City Independent School District*, 570 F.2d 541 (1978). According to *Christiansburg*, a prevailing defendant can recover attorney's fees only if the claim made by the plaintiff was frivolous, unreasonable or groundless.

In the matter of the claim against the defendants Epperson, Tucker and Finan, it is not clear that the claim was completely frivolous, unreasonable or so groundless as to grant the defendants attorney's fees. The court must note that the claim arose out of an incident of confused circumstances. While the jury after one-and-a-half hours of deliberation came to the conclusion that the plaintiffs claim was meritless, the court is loathe to engage in *post hoc* reasoning on the basis of the jury's verdict. *Christiansburg Garment Company v. E.E.O.C.*, at p. 421.

However, an award of attorney's fees is in order for the remaining defendants. On October 29, 1980, the court granted the defendant's motion for summary judgment. After an exhaustive search of the record and extensive pre-trial conferences with the parties disclosed that the plaintiffs were attempting to convert a state action into a federal one by naked, conclusionary allegations of conspiracy and race motive animus. It is clear that there is no true dispute as

to the material facts of this case. The plaintiffs would contend that the foreclosure and eviction were deliberate actions taken against them by a conspiracy of the defendant. However, the record clearly discloses the legality of the foreclosure and subsequent eviction. It clear that the plaintiff's case consists simply of naked allegations and nothing more and was from its inception totally frivolous.

The court is reluctant to assert attorney fees against individuals. However, its dockets are too overburdened to entertain vexatious and harrassing litigation. The plaintiffs have filed 15 lawsuits in this court since 1977, almost all of them frivolous in nature. There are too many people who have invoked the jurisdiction of the court in good faith to permit them to be deprived of the justice to which they are entitled because substantial amounts of the court's time are occupied by spurious lawsuits of the kind involved here. Therefore, the court being advised,

IT IS ORDERED as follows:

1. That in Civil Action No. 78-57 defendant Richard Nelson be awarded \$960 for attorney's fees.

2. That in Civil Action No. 78-70 the defendant Richard Slukich be awarded \$2,628.13 for attorney's fees; and the defendants People's Liberty Bank & Trust Company, Richard V. Haile, Jr., James Liles, Bernard Smith, and Richard S. Nelson be awarded attorney's fees for a total of 32 hours of work on the above consolidated cases at a rate of \$60 per hour for a total of \$1,920.

3. That in Civil Action No. 79-40 the motion for an award of attorney's fees for the defendants Epperson, Tucker and Finan be, and hereby is, denied.

4. That the judgment be, and hereby is, joint and several against the plaintiffs, Eddie Thompson, Jr. and Patricia Thompson.

This 8th day of December, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

[CERTIFICATION OMITTED]

EXHIBIT L

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION NO. 78-57

EDDIE THOMPSON, JR.,
PATRICIA THOMPSON,

Plaintiffs

vs.

RICHARD NELSON

Defendant

JUDGMENT

(Filed December 18, 1980)

In accordance with the order entered concurrently herewith,
IT IS ORDERED AND ADJUDGED that the defendant
Richard Nelson recover of the plaintiffs Eddie Thompson, Jr.
and Patricia Thompson, jointly and severally, the sum of nine
hundred and sixty (\$960) dollars with interest thereon from
the date of this judgment.

This 18th day of December, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

[CERTIFICATION OMITTED]

EXHIBIT M

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION NO. 78-70

EDDIE THOMPSON, JR.,
PATRICIA THOMPSON Plaintiffs

v.

RICHARD SLUKICH,
PEOPLE'S LIBERTY BANK,
RALPH HAILE,
RICHARD NELSON Defendants

JUDGMENT

(Filed December 18, 1980)

In accordance with the order entered concurrently herewith,
IT IS ORDERED AND ADJUDGED as follows:

1. That the defendant Richard Slukich recover of the plaintiffs Eddie Thompson, Jr. and Patricia Thompson, jointly and severally, the sum of two thousand six hundred twenty-eight dollars and 13/100 (\$2,628.13) with interest thereon from the date of this judgment.

2. That the defendants People's Liberty Bank, Ralph Haile, and Richard Nelson recover of the plaintiffs Eddie Thompson, Jr. and Patricia Thompson, jointly and severally, the sum of one thousand nine hundred and twenty (\$1,920) dollars with interest thereon from the date of this judgment.

This 18th day of December, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

[CERTIFICATION OMITTED]

25a

EXHIBIT N

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

CIVIL ACTION NO 78-57

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD NELSON

Defendant

CIVIL ACTION NO. 78-70

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

RICHARD SLUKICH, ET AL

Defendant

CIVIL ACTION NO. 79-40

EDDIE THOMPSON, JR., ET AL

Plaintiff

vs.

PEOPLE'S LIBERTY BANK, ET AL

Defendant

ORDER

(Filed September 23, 1980)

A pre-trial conference was held in the above-styled cases on September 10, 1980, wherein the above-styled cases were consolidated. All attorneys of record were present and the plaintiff, Eddie Thompson, noted no objection to the consolidation of said cases.

The plaintiffs were present and represented pro se by Eddie Thompson, Jr.; Defendant Richard Nelson (Case No. 87-57) was present and represented by Rodney S. Bryson; Defendant Richard Slukich (Case No. 78-70 and Case No. 79-40) was not present, but represented by Robert W. Carran and Steve Wolnitzek; Defendants People's Liberty Bank and Ralph Haile were not present, but represented by Richard Nelson; Defendant Richard Nelson was present and represented himself pro se; Attorney Burr J. Travis was present and represented Judy Guffey of Carson Furniture; Stephen T. McMurty, Office of the City Solicitor, Covington, Kentucky, was present and represented all city employees.

The court having heard counsel and having been sufficiently advised,

IT IS ORDERED as follows:

1. The trial against the police officers, Thomas E. Epperson, James Tucker, and Todd A. Finan, involved in the alleged use of excessive force against the plaintiff in the course of an arrest occurring on April 15, 1978, which plaintiff contends violated his Civil Rights, is set for trial by jury on October 23, 1980, at 9:30 A.M. The court considers this matter a separate claim, and hereby orders a separate trial thereon, by virtue of F.R.Civ.P. 42.

2. Motions to dismiss of defendants with regard to all other claims as supplemented by the court records ordered to be filed at the pre-trial conference, and by the statements of the plaintiff made at the pre-trial conference, shall be considered as motions for summary judgment. Plaintiff shall have 30 days from September 10, 1980, to file any additional memoranda or affidavits he desires in opposition to said motions. All affidavits must comply with the requirements of F.R.Civ.P.

56(e). At the conclusion of said 30 days, the motions for summary judgment will be taken under submission, without further order of the court.

3. Counsel Richard Nelson is to file the certified record from the state court as to the foreclosure of the property located at 736 Highland Avenue, Covington, Kentucky.

4. Counsel for Defendant Richard Slukich is ordered to make the warrant and complaint of the state court criminal trespass case referred to at the pre-trial conference a part of the record herein.

5. The amended answers of police officers, Thomas E. Epperson, James Tucker, and Todd A. Finan, tendered on September 2, 1980, be and hereby are, ordered filed and all parties are granted 10 days from September 10, 1980, to file any other amended pleadings.

This 22nd day of September, 1980.

/s/ WILLIAM O. BERTELSMAN
JUDGE

[CERTIFICATION OMITTED]

EXHIBIT O

AFFIDAVIT

(Filed September 18, 1980)

I, Richard S. Nelson, a member of the Bar of the Kentucky Supreme Court, of the United States Supreme Court and the United States District Court for the Eastern District of Kentucky do hereby certify that the record in the case of Peoples Liberty Bank and Trust Company vs. Eddie Thompson, Jr. and Patricia Thompson, # 33430 cannot be made available at the present time to the United States District Court as same is in Frankfort, Kentucky in the office of the Clerk of the Supreme Court of Kentucky upon a Motion of Eddie Thompson, Jr. and Patricia Thompson to that court for Discretionary Review.

I further certify that I have made a copy of what I believe to be all of the pleadings in said matter which I have compiled from my file in this matter and certify that same is attached.

/s/ RICHARD S. NELSON

SUBSCRIBED AND SWORN TO before me, a Notary Public, this the 17th day of September, 1980.

/s/ LINDA JEAN STUMPF
NOTARY PUBLIC
STATE AT LARGE

MY COMMISSION EXPIRES:

2/8/84

[No Certification that a Copy was served on Other Parties to This Action.]

EXHIBIT P

OPINION RENDERED: May 2, 1980
NOT TO BE PUBLISHED

**COMMONWEALTH OF KENTUCKY
COURT OF APPEALS**

NO. 79-CA-1456-MR

**PATRICIA THOMPSON and
EDDIE THOMPSON, JR.,**

Appellants

v.

PEOPLES LIBERTY BANK

Appellee

**Appeal From Kenton Circuit Court
Honorable William R. Dunn, Judge
Action No. 33430**

AFFIRMING

• • •

**BEFORE: HAYES, Chief Judge, Breetz and WILHOIT,
Judges.**

HAYES, CHIEF JUDGE. Eddie Thompson, Jr. and Patricia Thompson appeal from an order and judgment of the Kenton Circuit Court dismissing a forcible detainer proceeding and the appeal therefrom. The Peoples Liberty Bank and Trust Company of Covington, Kentucky, filed the complaint for forcible detainer in Kenton Quarterly Court in September, 1977. The quarterly court rendered judgment for the bank

on September 26, 1977 and ordered that a writ of restitution issue. The writ of restitution was never executed. The Thompsons appealed the quarterly court judgment to Kenton Circuit Court on September 28, 1977. No action was taken by either party to the proceeding until March 5, 1979 when the bank moved to dismiss the case as being moot on the grounds that the bank had obtained the property pursuant to another Kenton Circuit Court action and had conveyed same in July, 1978. The Thompsons filed a motion for a trial date on March 9, 1979. On March 13, 1979 the circuit court entered a judgment dismissing the case with prejudice as being moot. From this judgment the Thompsons appeal.

The Thompsons have proceeded pro se in these proceedings and apparently in the several actions in the various Kenton courts, obviously a substantial contributing factor to the Thompsons' confusion and lack of understanding concerning this proceeding. Apparently the Thompsons no longer have the property in question and ask this court to order the circuit court to put them in possession of such property. However, the simple fact is, that the property was not taken from them as a result of this case, but such was accomplished in a separate circuit court action. The Thompsons are attempting to attack a judgment over which this court has no jurisdiction. The circuit court ordered the action dismissed explaining to the Thompsons in a hearing that that was the most relief which it could grant, i.e. the bank's forcible detainer proceeding would be dismissed with prejudice. Since the Thompsons had not been relieved of their property as a result of the forcible detainer proceeding but rather had been so relieved as a result of a circuit court proceeding, the dismissal of the forcible detainer proceeding could not result in the Thompsons being placed in possession of the property in question. The circuit court was not in error in dismissing the proceedings with prejudice. It is the bank not the Thompsons, as they perceive, who are prejudiced with respect to the proceedings.

Since we have no jurisdiction over federal courts, we will not comment on the issue raised pertaining thereto.

The judgment is affirmed.
ALL CONCUR.

ATTORNEYS FOR APPELLANTS:

Patricia Thompson
Eddie Thompson, Jr., Pro Se
736 Highland Avenue
Covington, Kentucky 41011

ATTORNEY FOR APPELLEE:

Richard Nelson
11 West 6th Street
Covington, Kentucky 41011

EXHIBIT Q

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

No. 78-57

PATRICIA THOMPSON
EDDIE THOMPSON, JR.,

Plaintiffs

vs.

MR. RICHARD NELSON

Defendant

COMPLAINT

(Filed July 10, 1978)

SERVE: Mr. Richard Nelson, 11 W. Sixth Street, Covington, Kentucky 41011

Plaintiffs Patricia and Eddie Thompson, Jr. state:

1. That jurisdiction of this court in this matter arises under 28 U.S.C. 1343(3); 42 U.S.C. 1983, 1985, 1986.
2. That Patricia and Eddie Thompson, Jr. are black citizens of the State of Kentucky and reside in the City of Covington.
3. That Richard Nelson is and/or was attorney for Peoples Liberty Bank, Merv Grayson, Sr., and Richard Nelson, Pro Se in Civil Action 77-72, 77-73.
4. That Mr. Richard Nelson filed an illegal foreclosure suit for Peoples Liberty Bank (Kenton Circuit Court 31503).
5. That Mr. Merv Grayson, Sr., Mr. Richard Nelson, and others conspired to bring about the illegal foreclosure.
6. That after Mr. Nelson obtained judgment in the illegal

foreclosure, he filed a complaint for forcible detainer in Kenton Quarterly Court. Exhibit A.

7. That Patricia and Eddie Thompson, Jr. filed a Traverse in that complaint for forcible detainer, Civil Action 9817. Exhibit B.

8. That the Writ of Forcible Detainer is Kenton Circuit Court No. 33430.

9. That Mr. Nelson Has been able to prevent that court from calling Civil Action No. 33430.

10. That Mr. Nelson had Judge Goodenough to sign a void order, Exhibit C, which both Mr. Nelson and the Judge knew to be void.

11. That with this void order, Mr. Nelson caused the Sheriff's Departments to break into plaintiffs' home and set their furnishings upon the street. Exhibit D.

12. That Patricia and Eddie Thompson, Jr. appealed the void Order and the appeal was dismissed. Exhibit E.

13. That in Kentucky the procedure is to dismiss void judgment on appeal.

14. That after the Court of Appeals dismissed the void judgment, Mr. Nelson continued to harass Patricia and Eddie Thompson, Jr. and family by letter and by having the Sheriff's Department of Kenton County to issue papers that had no valid effect according to state law. Exhibit F.

15. That on a number of occasions Mr. Nelson threatened to have Patricia and Eddie Thompson, Jr. arrested for no just cause.

16. That Mr. Nelson did conspire, with others, and had Patricia Thompson arrested for no cause.

17. That Mr. Nelson did all of the above because plaintiffs are Negro; because plaintiff Eddie Thompson, Jr. had contested the May 1975 Primary Election; and because Peoples Liberty Bank was paying him to do thus.

18. That Mr. Nelson represented a defendant in the contesting of the May 1975 primary election.

19. That Mr. Nelson was not paid for his services in the election contest.

20. That Mr. Nelson and his client and/or clients had threatened to "get" Thompson for contesting the May 1975 primary.

21. That even though Mr. Nelson knew that neither he nor any of his client/s had any justifiable claims against Patricia and Eddie Thompson, Jr., he wilfully misrepresented facts in the Kenton Circuit Court.

22. That Mr. Nelson's actions have cause plaintiffs and their family much grief, vexation, anxiety, and mental suffering.

WHEREFORE, plaintiffs pray the court for judgment against Richard Nelson as follows:

1. For \$50,000 declaratory judgment
2. For \$25,000 punitive damages.
3. For trial by jury
4. For the Court to restrain Mr. Nelson from illegal interference and harassment of plaintiffs.
5. For any other good and proper relief they may be entitled.

/s/ PATRICIA THOMPSON
PATRICIA THOMPSON, Pro Se
736 Highland Avenue
Covington, Kentucky 41011
(606) 491-6278

/s/ EDDIE THOMPSON, JR.
EDDIE THOMPSON, JR., Pro Se
736 Highland Avenue
Covington, Kentucky 41011
(606) 491-6278

EXHIBIT R

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

NO. 78-57

PATRICIA THOMPSON
EDDIE THOMPSON, JR.,

Plaintiffs

vs.

RICHARD NELSON

Defendant

AMENDMENT OF PLEADINGS AS OF COURSE

(Filed September 21, 1978)

• • •

23. That on or about April 15, 1978, Richard Nelson had conspired to cause certain policemen (City of Covington) to beat Eddie Thompson, Jr. for no just cause.

24. Than on April 12, 1978, Richard Nelson had caused Judge Goodenough to sign a void order "Writ of Possession".

25. That the purpose of this order was to provide Mr. Nelson and his co-conspirator with a just cause for breaking into plaintiffs' home.

26. That prior to April 12, 1978, Mr. Nelson had written plaintiffs a letter informing them to notify him when they would voluntarily move, (giving 10 days to answer) or he would come in and move the furnishings himself.

27. That Eddie Thompson, Jr. called Richard Nelson to inquire of his intent.

28. That Richard Nelson informed Eddie Thompson, Jr. to move or he would take care of him.

29. That Eddie Thompson, Jr. did not know what Mr. Nelson meant and Eddie Thompson, Jr. asked Mr. Nelson what he meant.

30. That Mr. Nelson hung up on Eddie Thompson, Jr.

31. That Mr. Nelson and Mr. Haile conspired to engage Mr. Richard Slukich, an attorney, to fabricate criminal charges on Eddie Thompson, Jr.

32. That Mr. Slukich did fabricate criminal charges, namely, Trespassing in the first degree and Burglary in the first degree.

/s/ EDDIE THOMPSON, JR.
 EDDIE THOMPSON, JR., Pro Se
 736 Highland Avenue
 Covington, Kentucky 41011
 (606) 491-6278

/s/ PATRICIA THOMPSON
 PATRICIA THOMPSON, Pro Se
 736 Highland Avenue
 Covington, Kentucky 41011
 (606) 491-6278

[CERTIFICATION OMITTED]

EXHIBIT S

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

NO. 78-70

EDDIE THOMPSON, JR.,
PATRICIA THOMPSON

Plaintiffs

vs.

RICHARD SLUKICH, PEOPLES LIBERTY BANK,
RALPH HAILE, RICHARD NELSON

Defendants

AMENDED COMPLAINT

(Filed September 25, 1979)

SERVE: Richard Nelson, 11 W. 6th Street, Covington,
KY 41011; Ralph Haile, President, Peoples Lib-
erty Bank, 6th and Madison Streets, Covington,
KY 41011

Patricia and Eddie Thompson, Jr., for their Complaint state
the following:

1. The instant action is a suit seeking to have declared null
and void a deed, dated June 27, 1978, from Peoples liberty
Bank to Richard Slukich. Said deed being in violation of the
Champerty Statutes of Kentucky. K.R.S. 372.070.

2. That they are Negroes and reside in the City of Coving-
ton.

3. That jurisdiction is found under 42 U.S.C. 1983, 1985, and 1986.

4. That Peoples Liberty Bank illegally foreclosed on property owned by Patricia and Eddie Thompson, Jr. located at 736 Highland Avenue, Covington, Kentucky, described as follows:

Known as Lot No. 2 of Deye's Subdivision in Kenton County, Kentucky, and described as follows:

Beginning at the common corner of Lots 1 and 2 of Block "A" of Deye's Subdivision 50.58 feet east of the east line of the alley 6 feet in width the center line of which is the dividing line between Lot No. 1 and Louis Trenkamp; thence eastwardly along the north line of Highland Avenue 40.59 feet to the common corner of Lots 2 and 3 of said subdivision; thence northwardly along the dividing line between Lots, 146 feet to the south line of an alley 16 feet in width the corner of said Lots 2 and 3, thence westwardly along the south line of said Alley 40.82 feet to the corner of Lots 2 and 1; thence south along the division line of said lots, 147.35 feet to the beginning, being Lot 2 of said subdivision.

Also an easement in and to the north 25 feet of that part of said Avenue immediately in front of said Lot 2, and the south half of that part of said alley immediately in the rear of said Lot 2.

5. That Peoples Liberty Bank foreclosed because of plaintiffs' race and because Eddie Thompson, Jr. contested an election.

6. That at the time the original complaint was filed, a suit was pending in Kenton Circuit Court (#33430) to determine ownership of said property or eject the rightful owners.

7. Said case was Styled "Peoples Liberty Bank Vs. Eddie Thompson, Jr. and Patricia Thompson."

8. That Peoples Liberty Bank moved the Kenton Circuit Court to dismiss their ejectment proceeding with prejudice (#33430).

9. The the Kenton Circuit Court granted said Motion on March 13, 1979.

10. That Mr. Slukich, an attorney, was hired by Richard Nelson, an attorney, and Ralph Haile — agents of Peoples Liberty Bank — solely to bring criminal charges against Eddie Thompson, Jr.

11. That Mr. Slukich did bring (or had brought) criminal charges against Eddie Thompson, Jr. (Criminal trespass 1°, 78-M-2912; and Burglary 1°).

12. That on September 13, 1979, Mr. Richard Slukich participated in the second staged trial (Kenton District Court, 78-M-2912) in an effort to frame Eddie Thompson, Jr. on criminal charges he had brought against Eddie Thompson, Jr.

13. That Mr. Slukich was a witness and a prosecutor in this case. Separation of witness was ordered, but the Judge allowed Mr. Slukich to assist the prosecutor.

14. That under oath Mr. Slukich testified that he "looked at (looked in the window) my home (the property in question) with the intent of purchasing it sometime between July 19, 20, or 21, 1978; that he did not see the police officers (hired by Peoples Liberty Bank) who occupied the premises on a 24-hours-a-day basis (with instructions to arrest Eddie Thompson, Jr. on criminal trespass); that he did not know the exact amount of the mortgage he had paid for 14 months; that he would not present his payment book and any other evidence in this case."

15. That (under oath) Officer Liles testified that he and other police officers leased my home (736 Highland Avenue) for \$200 a month and the purpose was to bring Criminal trespass charges against Eddie Thompson, Jr., and they were paid \$5 an hour.

16. That subsequent to the illegal acts complained of herein, Mr. Slukich, Mr. Nelson, and Mr. Haile (agents of Peoples Liberty Bank) conspired to have all of plaintiffs' furnishings, clothing, business tools, business records, money, and other personal effects stolen.

17. That on July 29, 1978, Mr. Richard Slukich wilfully lied, claiming ownership of 736 Highland Avenue, Covington, Kentucky.

18. That this false claim was maliciously intended and did cause Eddie Thompson, Jr. to be arrested and put in jail.

19. That as an attorney, Mr. Slukich knew that if he had a legitimate right to the property at 736 Highland Avenue, Covington, Kentucky, it would have been the responsibility of the Bank to deliver him the property.

20. That Peoples Liberty Bank made no efforts to deliver the premises at 736 Highland Avenue to Mr. Slukich.

21. That Mr. Slukich's claim is a sham, but was done to cause Patricia and Eddie Thompson, Jr. much trouble, expense, and damage in the way of costs in the defense of same.

22. That Mr. Slukich is aware that Peoples Liberty Bank illegally foreclosed on the aforementioned property because plaintiffs are Negroes and because Eddie Thompson, Jr. contested an election, and Mr. Slukich's efforts are to aid the Bank.

23. That Mr. Slukich knowingly and wilfully committed all of the acts complained of herein.

WHEREFORE, plaintiffs pray for:

1. Twenty-five Thousand Dollars (\$25,000) declaratory damages.
2. Twenty-five Thousand Dollars (\$25,000) punitive damages.
3. Trial by jury.
4. Costs expended herein.
5. Any other relief to which they may be entitled.

/s/ EDDIE THOMPSON, JR.
EDDIE THOMPSON, JR., Pro Se

/s/ PATRICIA THOMPSON
PATRICIA THOMPSON, Pro Se

[CERTIFICATION OMITTED]

41a

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

NO. 78-70

EDDIE THOMPSON, JR.,
PATRICIA THOMPSON

Plaintiffs

vs.

RICHARD SLUKICH

Defendant

Supplemental Affidavit
In Support Of Motion For Trial Date Certain
Before The Court And Jury
and/or

Motion For Summary Judgment And Hearing

(Filed September 25, 1979)

Comes now Patricia and Eddie Thompson, Jr., plaintiffs herein, and submit the attached Affidavit in support of their Motion.

/s/ EDDIE THOMPSON, JR.
EDDIE THOMPSON, JR., Pro Se
736 Highland Avenue
Covington, Kentucky 41011
(606) 491-6278

/s/ PATRICIA THOMPSON
PATRICIA THOMPSON, Pro Se
736 Highland Avenue
Covington, Kentucky 41011
(606) 491-6278

[CERTIFICATION OMITTED]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

No. 78-70

EDDIE THOMPSON, JR.
PATRICIA THOMPSON

Plaintiffs

vs.

RICHARD SLUKICH

Defendant

AFFIDAVIT

Comes now Patricia Thompson and Eddie Thompson, Jr., being duly cautioned and sworn and state the following:

1. That on July 29, 1978, Mr. Richard Slukich had Mr. John Elfers to sign a warrant against Eddie Thompson, Jr. charging him with criminal trespassing.

2. That Mr. Slukich had been hired by Mr. Nelson, Mr. Haile, and Peoples Liberty Bank to bring these charges.

3. That on September 13, 1979, Judge Stephens held a bogus trial for the purpose of framing Eddie Thompson, Jr. on trespassing charges.

4. That Eddie Thompson, Jr. was not allowed to present any evidence at the trial.

5. That Mr. Slukich, who had brought these charges, served as witness and as a prosecutor.

6. That Mr. Slukich, under oath, told the jury he "had not been in our house before he bought it, but that he looked in the window sometime between July 19, 20, and 21, 1978, and that he did not see the police officers who were staying in the house on a 24-hours-a-day watch."

7. That he (Slukich) did not know what the mortgage amount was.

8. That Mr. Slukich could not explain why the deed was mailed to Mr. Nelson.

9. That police officer James Liles testified under oath that he and other police officers leased our home on July 19, 1978, for \$200 a month and they were paid \$5 an hour, and that they had instructions to arrest Eddie Thompson, Jr. and charge him with criminal trespass and that Mr. Ralph Haile had hired them.

/s/ EDDIE THOMPSON, JR.
EDDIE THOMPSON, JR.

/s/ PATRICIA THOMPSON
PATRICIA THOMPSON

[CERTIFICATION OMITTED]

EXHIBIT T

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
COVINGTON

NO. 79-40

EDDIE THOMPSON, JR.
PATRICIA THOMPSON

Plaintiffs

vs.

PEOPLE'S LIBERTY BANK, CARSON FURNITURE,
GEORGE WERMELING, RALPH HAILE, JUDY
GUFFEY, RICHARD NELSON, RICHARD SLUKICH,
THOMAS E. EPPERSON, JAMES TUCKER, TODD
A. FINAN, JAMES LILES, BERNARD SMITH,
HENRY WARDEN, UNNAMED POLICE OFFICERS,
UNNAMED EMPLOYEES OF CARSON FURNI-
TURE.

Defendants

COMPLAINT

(Filed April 16, 1979)

Serve: Ralph Haile, People's Liberty Bank, 6th & Madison,
Covington, KY; Judy Guffey, Carson Furniture,
203-205 Pike St. Covington, KY; George Wermel-
ing, Mayor, City of Covington City-County
Building, Covington, KY; Richard Nelson, 11 W.
6th Street. Covington, KY; Richard Slukich, 314
Greenup Street, Covington, KY; Chief Schwartz,
Thomas Epperson, James Tucker, Todd
A. Finan, James Lilies, Bernard Smith, Henry
Warden of the Covington Police Department,
City-County Building, Covington, KY.

Patricia and Eddie Thompson, Jr. for their complaint state the following:

1. That jurisdiction of this Court in this matter arises under 28 U.S.C. 1343(3); 42 U.S.C. 1983, 1985 and 1986.

2. That this is an action for damages as a result of defendants conspiring to deprive plaintiffs of their personal property after an illegal foreclosure on plaintiffs' home by People's Liberty Bank.

3. That the defendants, individual and/or acting through officers, agents and/or employees, invaded plaintiffs' rights (of privacy and deprived them of personal possessions) by wilfully and maliciously causing, directing and/or participating in (1) the breaking into of plaintiffs home, (2) the stealing and destroying of plaintiffs' furnishings, clothing, business tools, business records, money, and other personal items, and (3) the beating of Eddie Thompson, Jr.

4. That People's Liberty Bank had illegally foreclosed real properties the Thompsons had an interest in, including their home, because Eddie Thompson, Jr. had contested the May Primary Election in 1975.

5. That subsequently, Richard Nelson filed a Forcible Detainer which was traversed to the Kenton Circuit Court.

6. That Richard Nelson recognized the Ejectment proceeding would be a trial by jury and prevented in from being called.

7. That on or about October 19, 1977, Richard Nelson had Judge Goodenough to sign a void order called "Writ of Possession".

8. That the Sheriff executed that void order on October 27, 1977.

9. That Patricia and Eddie Thompson, Jr. appealed the October 19, 1977, void order.

10. That the Appeal was finally dismissed on March 31, 1978.

11. That subsequently, Richard Nelson wrote Eddie Thompson, Jr. instructing the Thompsons to call him within

10 days and let him know when they (the Thompsons) were moving.

12. That Eddie Thompson, Jr. did call Richard Nelson, and Mr. Nelson told Eddie Thompson, Jr. to move or he would have him taken care of.

13. That when Eddie Thompson, Jr. asked Mr. Nelson what he meant, Mr. Nelson hung up.

14. That on April 12, 1978, Mr. Nelson had Judge Good-enough to sign a second void order entitled "Writ of Possession."

15. That Mr. Nelson had planned to have the April 12, 1978, order executed in 10 days.

16. That Mr. Nelson intended to use police officers to execute the "Writ of Possession".

17. That Mr. Nelson intended for the police officers to beat Eddie Thompson, Jr. so as to threaten and intimidate Patricia Thompson and their children.

18. That subsequently, on or about April 15, 1978, Eddie Thompson, Jr. had parked his truck in a bus stop at 18th and Madison and had crossed the street on his way to Pasquale's Pizza.

19. That the buses were not running.

20. That a police officer pulled in behind Thompson's truck and called out that the truck was parked in a bus stop.

21. That Thompson started back across the street to move the truck, but the officer called Thompson to the sidewalk, asking him his name and address.

22. That Eddie Thompson, Jr. told the police officer his name and where he lived.

23. That the police officer then told Eddie Thompson,, Jr. to walk a straight line.

24. That Eddie Thompson, Jr. asked the police officer what the problem was.

25. That the police officer told Thompson to walk up the street.

26. That unbeknown to Thompson at the time, the officer (Epperson) radioed for 2 other policemen.

27. That after radioing for these police officers, Officer Epperson called Thompson back.

28. That Officer Epperson told Eddie Thompson, Jr. to follow him to the police cruiser.

29. That when Eddie Thompson, Jr. and Officer Epperson reached the police cruiser, Officer Epperson told Thompson to get into the cruiser.

30. That Officer Epperson did not ask Thompson for his driver's license or tell him he was under arrest on any charges.

31. That when Officer Epperson told Eddie Thompson, Jr. to get into the cruiser, Thompson asked Officer Epperson what the problem was.

32. That Officer Epperson started beating Eddie Thompson, Jr. about the head with him "Billy Club".

33. That Eddie Thompson, Jr. put his hands over his head to protect his head.

34. That as Eddie Thompson, Jr. put his hands over his head, 2 cruisers, lights flashing, arrived at the same time. Both officers came out of their cruisers with their clubs swinging (Finan and Tucker).

35. That as the police officers struck Eddie Thompson, Jr. with their clubs, Thompson fell to the ground and started yelling for help.

36. That these police officers kicked and beat Eddie Thompson, Jr. nearly unconscious.

37. That a crowd of people appeared at the scene.

38. That the police officers handcuffed Eddie Thompson, Jr., then dragged him across the street and put him into a cruiser.

39. That after the officers had put Eddie Thompson, Jr. into the cruiser, they went back across the street.

40. That one officer (Finan) came to the cruiser, pulled a small caliber automatic pistol and told Eddie Thompson, Jr. he would put him in the river.

41. That when the cruiser reached the police station, Eddie Thompson, Jr. was unable to get out of the police cruiser.

42. That the police officers dragged Eddie Thompson, Jr. out of the police cruiser and into the building.

43. That when the police officers got to the second floor, a police officer asked Thompson his name and address.

44. That Eddie Thompson, Jr. gave his name and address; and asked to make a phone call, which was refused.

45. That Richard Nelson engaged these police officers to beat Eddie Thompson, Jr.

46. That Ralph Haile paid to have these police officers threaten and intimidate Eddie Thompson, Jr.

47. That if the crowd had not appeared at the scene, the police officers would have put Eddie Thompson, Jr. in the river as Officer Finan had threatened.

48. That as a cover-up, these police officers charged Eddie Thompson, Jr. with Assaulting a police officer, Disorderly conduct, Resisting arrest, and D.U.I. Ex. 3

49. That Eddie Thompson, Jr. filed charges with Mayor George Wermeling against the police officers pursuant to K.R.S. 95.450. Ex. 1, 2.

50. That as of today, there has been no hearing on the charges against the police officers.

51. That Mayor George Wermeling wilfully neglected to hold a hearing because he knew these police officers had done wrong. Ex. 4, 5, 6, 6A.

52. That Mayor Wermeling knew People's Liberty Bank had illegally foreclosed on the Thompsons and that People's Liberty Bank was trying to steal the Thompsons' home.

53. That when the police officers did not kill Eddie Thompson, Jr., Richard Nelson and Ralph Haile came up with another plan.

54. That subsequently, on July 17, 1978, Ralph Haile and Richard Nelson had the Sheriff execute the void order Richard Nelson had Judge Goodenough to sign on April 12, 1978.

55. That while Eddie and Patricia Thompson were at work, Sheriff's deputies and police officers forced their way into Patricia and Eddie Thompson, Jr.'s home.

56. That the Sheriff's deputies and the police officers knew the April 12, 1978, order was void, but they wilfully carried out the order.

57. That Richard Nelson and Ralph Haile knew that Eddie Thompson, Jr. knew the April 12, 1978, order was void and illegal and that Eddie Thompson, Jr. would probably resist this illegal act.

58. That Ralph Haile and Richard Nelson had about 6 City police officers on duty that date.

59. That to prevent the Thompsons from re-entering their home, these police officers occupied the Thompson home. Ex. 11, 11A.

60. That officers James Liles and Bernard Smith were 2 of the police officers.

61. That Officer Liles threatened to use force if Eddie Thompson, Jr. did not leave his home.

62. That these armed police officers took possession and occupied the Thompsons' home from July 17, 1978, to July 27, 1978, on a 24-hour basis.

63. That these police officers had orders to shoot if the Thompsons attempted to enter their home.

64. That a group of citizens went to the Mayor and Commissioners' meeting on July 27, 1978, to inquire as to why the police officers were occupying the Thompson home.

65. That Mayor Wermeling knew the police officers were at the Thompson home, but he denied any were there.

66. That Mr. Haile and Mr. Nelson hired Richard Slukich to cook up a scheme to bring criminal charges against Eddie Thompson Jr.

67. That Mr. Haile and Mr. Nelson deeded the Thompson home from People's Liberty Bank to Richard Slukich.

68. That Richard Nelson had the deed mailed to himself.

69. That the sole purpose of the deed to Richard Slukich was for Slukich to bring criminal charges against Eddie Thompson, Jr. and to have police officers threaten and intimidate Eddie Thompson, Jr. and family.

70. That Richard Slukich visited the Thompson home on July 31, 1978.

71. That Richard Slukich told Eddie Thompson, Jr. that he had purchased the Thompson home and if Eddie Thompson, Jr. did not leave, he would have him arrested.

72. That Eddie Thompson, Jr. informed Mr. Slukich of the situation surrounding his home.

73. That Mr. Slukich informed Eddie Thompson, Jr. that he knew, but if Thompson did not leave, he would have him arrested.

74. That Mr. Slukich did have Mr. John Elfers sign a warrant of arrest charging Eddie Thompson, Jr. with criminal trespassing in the first degree. Ex. 7.

75. That on or about August 8, 1978, Richard Slukich had 2 men to break into the Thompson home and change the lock/s on the door/s.

76. That City police officers stood by to prevent Thompson from doing anything. Ex. 12.

77. That on or about the 14th day of August, 1978, Mr. Slukich, Mr. Haile, and Mr. Nelson had Officer Henry Warden falsely accuse Eddie Thompson, Jr. of Burglary in the first degree. Ex. 8, 8A.

78. That subsequently, Richard Nelson, Ralph Haile, and Richard Slukich had unknown persons to enter into the Thompsons' home and steal all the Thompsons' furniture, clothing, money, business tools, business records, and all other personal effects.

79. That Eddie Thompson, Jr. reported this to the Covington Police Department and the Commonwealth Attorney's office. Ex. 9.

80. That the Commonwealth Attorney, Mr. Frank Trusty, said no Judge would sign a warrant.

81. That Judge Stephens told Eddie Thompson, Jr. no warrants will be issued.

82. That from approximately September 1, 1978, to April 2, 1979, all of our personal effects were missing without our knowledge of where they were.

83. That we have been and still are being deprived of our personal property without due process of law.

84. That on April 2, 1979, we received a bill from Carson Furniture for storage

85. That neither Eddie Thompson, Jr. nor Patricia Thompson ever engaged Carson Furniture to store anything for them.

86. That on April 2, 1979, Eddie Thompson, Jr. visited Carson Furniture and spoke to Mrs. Judy Guffey.

87. That Eddie Thompson, Jr. informed Mrs. Guffey that his furniture, clothing, money, business tools, business records, and etc., had been stolen.

88. That Eddie Thompson, Jr. informed Mrs. Guffey that the list she sent to him contained only a small portion of the Thompsons' possessions.

89. That Eddie Thompson, Jr. asked Mrs. Guffey why she had sent a bill to Eddie and Patricia Thompson and how she knew whose personal effects she had. Ex. 10, 10A.

90. That Mrs. Guffey informed Eddie Thompson, Jr. that Mr. Slukich was present when she and her men took the possessions and that she was working for Mr. Slukich.

91. That Mrs. Guffey then telephoned Mr. Slukich in Eddie Thompson, Jr.'s presence.

92. That Mrs. Guffey then informed Eddie Thompson, Jr. that she could not talk to him.

93. That after the illegal foreclosure, the subsequent acts were done under color of state law because the Thompsons were Negroes, and in contravention of the 14th Amendment to the U.S. Constitution.

94. That the acts contained of herein are causing permanent and irreparable damages to the plaintiffs.

WHEREFORE plaintiffs Patricia and Eddie Thompson, Jr. pray for Judgment against defendants jointly and/or severally as follows:

1. That the defendants acting individually, through officers, agents and/or employees, threatened Eddie Thompson, Jr.'s life; invaded both plaintiffs' right of privacy by wilfully and maliciously causing, directing and/or participating in the

breaking into of plaintiffs' home stealing of all their personal possessions, all in damage to the plaintiffs in the amount of One Hundred Thousand Dollars (\$100,000).

2. That plaintiffs receive One Hundred Thousand Dollars (\$100,000) punitive damage.
3. That this court convene a three-judge court.
4. For any other relief they may be entitled.

/s/ EDDIE THOMPSON, JR.
EDDIE THOMPSON, JR., Pro Se
736 Highland Avenue
Covington, Kentucky 41011
606/491-6278

/s/ PATRICIA THOMPSON
PATRICIA THOMPSON, Pro Se
736 Highland Avenue
Covington, Kentucky 41011
606/491-6278

[CERTIFICATION OMITTED]